G. R. S. App. F. IX-4]

1942 - 3

War File No. 149-42

Previous References.

(War)

Serial Nos. 28 to 30

Later References.

44446

P7

GENERAL AND REVENUE SECRETARIAT

Serial Nos. Three only.

Part B for April '43.

SUBJECT.

Amendments to Defence of India Rules.

M.M.Krishnan.
12.4.43.

kind reference is invited to Notifications of the Defence Department dated 27th ~~the~~ February and 6th March 1943 appearing in the Gazette of India dated 6th March 1943 amending Rules 81 and 78 of the Defence of India Rules.

By the amendment to Rule 81 the separate provision for hiring storage accommodation is proposed ~~and~~ to be omitted and Clause (bb) is proposed to be added to so as to provide for regulating the letting ~~or~~ etc. of accommodation for non-residential purposes also.

By the addition of Rule 78B, separate provision is made for the clearing of premises damaged by war operations and disposal of articles therein. The getting of such work done is now implied under Rule 78.

Submitted for orders if these amendments may be adopted.

3 The date in Sub-rule (2A) of Rule 81 before which action taken under Clause (ba) (proposed to be omitted) shall be deemed to have been taken under Clause (bb) for orders. It may perhaps be 1st April 1943.

So far no action seems to have been taken under Clause (ba).

Submitted with a Notification.

FOR LEGISLATION
Date 18.3.43
No. 5090
CHIEF SECRETARY
15 MAR 1943
GOVT. OF MYSORE

2734 Amendments to Defence of India Rule

Continuation Sheet. File No. Current No. 149 of 42-3. Page.

Sl. 28. From Secy to Govt. the Resident No. P 69-42 (2)/W dt 19-3-43 forwards copy of Defence Dept letter of no 6 dt 6th inst explaining the amendment to rule 81 of Defence of India Rules re powers to control rent of shops, houses etc and circulates reference to Defence Dept notifn of 6-3-43 amending rule 78B.

These amendments have been adopted already and issued in notifn no 3725/P dt 22-3-43. The amendment to rule 81 is to come into force from 1st April 1943

D-6-D. In the House rent control order issued under Rule 81(1A) by Commrs are appointed as "Controllers". A copy of the Defence Dept letter may perhaps be sent to D.Cs for their information & guidance. Further D.Cs have been delegated powers under rule 81. Sd/ for orders.

SC 23/3/43. (A.N. Agarwal)

Sl 30/Secy 3734 44/W d 24th Mar to all DCs Q&B

WD 1140—GPB—50,000—5-11-42

W1149-42-28. 2734 W

Confidential

No.F.69-42(2)/W. 19th March 1943

From

The Secretary to the Hon'ble the Resident in Mysore.

To

The Chief Secretary to the Government of His Highness the Maharaja of Mysore, Bangalore.

19. MAR. 19 GOVT. OF MYSORE

Amendments to the Defence of India Rules, 1939.

Sir,

I am directed to forward for information a copy of secret letter from the Government of India (Defence Department) to all Provincial Governments, No.5-DC(11)/43, dated the 26th February 1943, and enclosure.

2. Attention is also invited to the notification of the Government of India (Defence Department), No. 1655-CR/42, dated the 6th March 1943, published in Part I, Section I of the Gazette of India dated the 6th March 1943.

I have the honour to be,
Sir,
Your most obedient servant

18.3.43.

SECRETARY TO THE RESIDENT.

SECRET.
PRIORITY.

No.5-DC(11)/43.
GOVERNMENT OF INDIA.
DEFENCE DEPARTMENT.
New Delhi, the 26th February, 1943.

To

All Chief Secretaries (except Bombay and Punjab).
The Home Secretary to the Government of Bombay.
The Joint Secretary to the Government of Punjab, Home Department.
All Chief Commissioners (except Andaman and Nicobar Islands).

Subject:- Amendment of rule 81 of the Defence of India Rules so as to provide for the control of rent of any premises.

It has been suggested that powers may be taken in the Defence of India Rules so as to provide for the control of rent of shops, banks, stables, cattle sheds, garages etc. The Government of India agree that this may be necessary and consider that the best solution would be to take powers under rule 81 to control the rent of any premises, leaving it to the discretion of the order-making authority whether the object of any order which he might make could be related to any of the purposes specified in sub-rule (2) of rule 81. They will accordingly publish the enclosed notification in the Gazette of India dated the 27th February 1943.

2. The amendment will come into force from the 15th March 1943. The object of this delay is to enable persons to whom powers under clause (ba) of sub-rule (2) may have been delegated to be apprised of the change.

3. It will be observed that the proposed amendment provides that any action taken under or in relation to clause (ba) of sub-rule (2) of rule 81, before the date on which the amendment comes into force, shall be deemed to have been taken under or in relation to clause (bb) of that sub-rule as now amended. It also provides for the omission of clause (ba). The effect of this is as follows:-

(a) any orders already made under clause (ba) will continue to have effect as if made under clause (bb) as now amended;

(b) any delegation of powers made in relation to that clause, either specifically or with other clauses in sub-rule (2), will continue to have effect as if they were delegations under clause (bb) as now amended in respect of the powers delegated under the clause (ba)

Persons to whom powers under the old clauses (ba) and (bb) have been delegated would therefore continue to possess exactly the same powers, without its being necessary to make any fresh delegation. It is however suggested that where necessary Provincial Governments should consider making fresh delegation of powers with reference to the amended clause (bb)

It is also desired to point out with reference to paragraph 1 above that in deciding whether a relevant purpose was involved or not in making an order under the amended sub-rule, it would generally speaking be necessary to think not in terms of categories such as banks but of particular individual banks. In an individual case e.g. a bank situated near a military centre it might be essential to a war purpose (a) that a banker should not be evicted from his premises or forced to leave the same by an unconscionable enhancement of rent but it would clearly be impossible to affirm any such proposition with, reference to banks at large. So far as shops are concerned, the criterion generally applicable should be as to whether the shops in question were (b) such in which articles essential to the life of the community were being sold. Similarly in the case of stables, cattle sheds, etc., it would be desirable to consider whether a rise in the rent thereof would adversely effect the price of an essential article of diet such as milk.

Sd. x x x x x .
(L.J.D. Wakely)
Deputy Secretary to the Government of India

P.T.O.

SECRET.
PRIORITY.

No.5-DC(11)/43.
GOVERNMENT OF INDIA.
DEFENCE DEPARTMENT.
New Delhi, the 26th February 1943.

To

All Chief Secretaries (except Bombay and Punjab).
The Home Secretary to the Government of Bombay.
The Joint Secretary to the Government of Punjab, Home Department.
All Chief Commissioners (except Andaman and Nicobar Islands).

Subject:- Amendment of rule 81 of the Defence of India Rules so as to provide for the control of rent of any premises.

It has been suggested that powers may be taken in the Defence of India Rules so as to provide for the control of rent of shops, banks, stables, cattle sheds, garages etc. The Government of India agree that this may be necessary and consider that the best solution would be to take powers under rule 81 to control the rent of any premises, leaving it to the discretion of the order-making authority whether the object of any order which he might make could be related to any of the purposes specified in sub-rule (2) of rule 81. They will accordingly publish the enclosed notification in the Gazette of India dated the 27th February 1943.

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Persons to whom powers under the old clauses (ba) and (bb) have been delegated would therefore continue to possess exactly the same powers without its being necessary to make any fresh delegation. It is however suggested that where necessary Provincial Governments should consider making fresh delegation of powers with reference to the amended clause (bb).

4. It is also desired to point out with reference to paragraph 1 above that in deciding whether a relevant purpose was involved or not in making an order under the amended sub-rule, it would generally speaking be necessary to think not in terms of categories such as banks but of particular individual banks. In an individual case e.g. a bank situated near a military centre it might be essential to a war purpose that a banker should not be evicted from his premises or forced to leave the same by an unconscionable enhancement of rent but it would clearly be impossible to affirm any such proposition with, reference to banks at large. So far as shops are concerned, the criterion generally applicable should be as to whether the shops in question were such in which articles essential to the life of the community were being sold. Similarly in the case of stables, cattle sheds, etc., it would be desirable to consider whether a rise in the rent thereof would adversely effect the price of an essential article of diet such as milk.

Sd. x x x x x .

(L.J.D. Wakely)
Deputy Secretary to the Government of India.

P.T.O.

GAZETTE OF INDIA.

GOVERNMENT OF INDIA.

DEFENCE DEPARTMENT.

New Delhi, the 27th February 1943.

NOTIFICATION.

No. No.5-DC(11)/43.- In exercise of the powers conferred by section 2 of the Defence of India Act, 1939 (XXXV of 1939), the Central Government is pleased to direct that with effect from the 15th March, 1943, the following further amendments shall be made in the Defence of India Rules, namely:-

In rule 81 of the said Rules,-

(i) in sub-rule (2), clause (ba) shall be omitted, and in clause (bb), for the words "in any area of residential accommodation" the words "of any accommodation or class of accommodation, whether residential or non-residential". shall be substituted;

(ii) after sub-rule (2), the following sub-rule shall be inserted, namely:-

"(2A) Any orders made, and any action taken, under or in relation to clause (ba) of sub-rule (2) before the 15th March, 1943 shall be deemed to have been taken under or in relation to clause (bb) of that sub-rule as amended with effect from that date."

C. MacI. G. Ogilvie,

Secretary to the Government of India.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA [redacted]

No. 3725/W
W14-9-42-29.

General and Revenue Secretariat,

Dated Bangalore, 22nd ~~15th~~ March 1943.

NOTIFICATION.

In exercise of the powers conferred by Section 2 of the Defence of India Act, 1939 as applied to Mysore, the Government of His Highness the Maharaja are pleased to direct that the following further amendments shall be made in the Defence of India Rules, as in force in Mysore, namely:-

I. In the said Rules,--

(1) in sub-rule (1) of rule 78 the words "the clearing of any site on which substantial damage has occurred by reason of war operations" shall be omitted;

(2) after Rule 78A the following rule shall be inserted, namely:-

"78B. Salvage from premises damaged by war operations.- - (1) The Government may by general or special order provide--

(a) for the clearing of any premises in which substantial damage has occurred by reason of war operations;

(b) for the protection of any articles or things left upon such premises as aforesaid;

(c) for the removal, storage or disposal of any such articles or things as aforesaid, including the disinfection or destruction of articles or things which may be a source of danger to public health or safety.

(2) Any articles or things removed from any premises in accordance with an order under sub-rule (1) shall, subject to any provisions of the order authorising destruction or disposal, be held on behalf of the person for the time being entitled thereto until they are delivered to him.

(3) Where any articles or things are disposed of, whether by sale at the premises or otherwise, in accordance with an order under sub-rule (1) the net proceeds, if any, of such sale or disposal shall be held on behalf of the person for the time being entitled thereto until they are delivered to him.

(4) If any person contravenes the provisions of any order made under sub-rule (1) he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both".

II. In rule 81 of the said Rules:-

(i) in sub-rule (2), clause (ba) shall be omitted, and in clause (bb), for the words "in any area of residential accommodation" the words "of any accommodation, class of accommodation, whether residential or non-residential", shall be substituted;

(ii) after sub-rule (2), the following sub-rule shall be inserted, namely:-

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA ~~OF~~ MYSORE.

3725/W
W149-42-29.

General and Revenue Secretariat,

Dated Bangalore, ... 22nd March 1943.

NOTIFICATION.

In exercise of the powers conferred by Section 2 of the Defence of India Act, 1939 as applied to Mysore, the Governmen of His Highness the Maharaja are pleased to direct that the following further amendments shall be made in the Defence of India Rules, as in force in Mysore, namely:-

I. In the said Rules,--

(1) in sub-rule (1) of rule 78 the words "the clearing of any site on which substantial damage has occurred by reason of war operations" shall be omitted;

(2) after Rule 78A the following rule shall be inserted, namely:-

"78B. Salvage from premises dam ged by war operations.- - (1) Th Government may by general or special order provide--

(a) for the clearing of any premises in which substantial dam has occurred by reason of war operations;

(b) for the protection of any articles or things left upon suc premises as aforesaid;

(c) for the removal, storage or disposal of any such articles or things as aforesaid, including the disinfection or destruction of articles or things which may be a source of danger to public health or safety.

(2) Any articles or things removed from any premises in accor dance with an order under sub-rule (1) shall, subject to any provisions of the order authorising destruction or disposal, be held on behalf of the person for the time being entitled thereto until they are delivered to him.

(3) Where any articles or things are disposed of, whether by sale at the premises or otherwise, in accordance with an order under sub-rule (1) the net proceeds, if any, of such sale or disposal shall be held on behalf of the person for the time being entitled thereto until they are delivered to him.

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(i) in sub-rule (2), clause (ba) shall be omitted, and in clause (bb), for the words "in any area of resid tial accommodation" the words "of any accommodation class of accommodation, whether residential or non- residential", shall be substituted;

(ii) after sub-rule (2), the following sub-rule sha inserted, namely:-

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. 3725/W
W149-42-29

General and Revenue Secretariat,

Dated Bangalore, 22nd March 1943

NOTIFICATION.

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"78B. Salvage from premises damaged by war operations.- - (1) Government may by general or special order provide--

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(ii) after sub-rule (2), the following sub-rule shall be inserted, namely:-

(2A) Any orders made, and any action taken, under or in relation to clause (ba) of sub-rule (2) before the 1st April 1953. shall be deemed to have been taken under or in relation to clause (bb) of that sub-rule as amended with effect from that date."

By Order,

Chief Secretary to Government

To -- The Compiler, Mysore Gazette, for publication and supply of 150 copies to this office, 20 spare copies to each of the Deputy Commissioners of Districts and 25 copies to the Inspector General of Police.

Secret

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. 3731-44/43
W 149-42-30

General and Revenue Secretariat,

Bangalore, Dated 23rd March 1943.

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

To

The Deputy Commissioners of Districts.

Sir,

Amendments to the Defence of India Rules, 1939.

I am directed to forward for your information and guidance a copy of secret letter from the Government of India (Defence Department) No.5-DC(11)/43, dated the 26th February 1943, and enclosure, since received from the Residency.

I have the honour to be
Sir,
Your most obedient servant,

For Chief Secretary to Government.

Copy of secret letter No.5-DC(11)/43, dated the 26th February 1943, from the Government of India (Defence Department), New Delhi.

Amendment of rule 81 of the Defence of India Rules so as to provide for the control of rent of any premises.

It has been suggested that powers may be taken in the Defence of India Rules so as to provide for the control of rent of shops, banks, stables, cattle sheds, garages etc. The Government of India agree that this may be necessary and consider that the best solution would be to take powers under rule 81 to control the rent of any premises, leaving it to the discretion of the order-making authority whether the object of any order which he might make could be related to any of the purposes specified in sub-rule (2) of rule 81. They will accordingly publish the enclosed notification in the Gazette of India dated the 27th February 1943.

2. The amendment will come into force from the 15th April 1943. The object of this delay is to enable persons to whom powers under clause (bc) of sub-rule (2) may have been delegated to be apprised of the change.

3. It will be observed that the proposed amendment provides that action taken under or in relation to clause (bc) of sub-rule (2) of rule 81, before the date on which the amended rules